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October 6, 2010

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**UPS NEXT DAY AIR**

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National Labor Relations Board  
1099 14th Street, NW, Room 5400 East  
Washington, DC 20570-0001

Attention: Robert A. Giannasi, Chief Administrative Law Judge  
Arthur Amchan, Associate Chief Administrative Law Judge

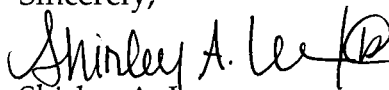
Re: **Ralphs Grocery Company**  
**Case Nos. 31-CA-27160, 31-CA-27475 & 31-CA-27685**

Dear Judges:

This office represents the Charging Parties in regard to the captioned matter.

Enclosed for filing please find Charging Parties' Motions for Reconsideration and to Reopen the Record.

Sincerely,

  
Shirley A. Lee

SAL:ls  
Enclosure

cc: See Certificate of Service

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WASHINGTON, DC

**BEFORE THE NATIONAL LABOR RELATIONS BOARD**

Ralphs Grocery Company

and

United Food and Commercial Workers  
Union, Local No. 135,

United Food and Commercial Workers  
Union, Local No. 324,

United Food and Commercial Workers  
Union, Local No. 770,

United Food and Commercial Workers  
Union, Local No. 1036,

United Food and Commercial Workers  
Union, Local No. 1167,

United Food and Commercial Workers  
Union, Local No. 1428, and

United Food and Commercial Workers  
Union, Local No. 1442

Case Nos. 31-CA-27160  
31-CA-27475  
31-CA-27685

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**CHARGING PARTIES' MOTIONS FOR RECONSIDERATION**

**AND TO REOPEN THE RECORD**

Charging Parties United Food and Commercial Workers Union, Local Nos. 135, 324, 770, 1036, 1167, 1428, and 1442 (collectively "Charging parties" or "Unions") hereby move the National Labor Relations Board ("the Board") to reconsider its Decision and Order dated September 30, 2010 and to reopen the record pursuant to NLRB Rules and Regulation § 102.48(d). On September 29, 2010, the Charging parties filed a Motion to Reopen and Supplement the Record based upon evidence that materialized while the case was being reviewed before the Ninth Circuit. However, the Board committed a material error by issuing its Decision and Order without ruling on Charging Parties' Motion. Charging Parties now request

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the Board to reconsider its decision in light of the Motion to Reopen and Supplement the record, as consideration of the new evidence would lead the Board to a different decision.

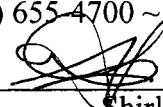
Charging Parties' Motion to Reopen and Supplement the Record with the supporting Declaration of Shirley A. Lee, introduces evidence that definitively shows that Ralphs waived any attorney-client privilege as to the internal audit when it produced the internal audit to the United States Attorneys Office ("USAO"), and the USAO in turn produced the internal audit to third parties. The Charging Parties will not repeat the arguments and evidence set forth in that Motion, but incorporate herein the Motion and the supporting Declaration. After review of the evidence, the Board should issue an amended decision and order ruling that Ralphs waived any attorney-client privilege to the internal audit, and therefore, the internal audit should be produced to the Charging Parties.

### III. CONCLUSION

The Charging Parties respectfully request that the Board admit supplemental evidence produced by the Unions and reconsider its Decision and Order dated September 30, 2010. Specifically, the Union request that the Board make a finding that Ralphs waived any attorney-client privilege to its internal audit, and that Ralphs committed an unfair labor practice by withholding the internal audit, which must now be produced to the Charging Parties.

Dated: October 6, 2010

Respectfully submitted by:  
Laurence D. Steinsapir, Esq.  
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By:  \_\_\_\_\_  
Shirley A. Lee  
Attorneys for Charging Parties, United Food and  
Commercial Workers Union, Local Nos. 135, 324,  
770, 1036, 1167, 1428, and 1442

**PROOF OF SERVICE BY OVERNIGHT DELIVERY**

**Ralphs Grocery Company and UFCW Local Unions  
135, 324, 770, 1036, 1167, 1428 and 1442  
Case Nos. 31-CA-27160, 31-CA-27475, 31-CA-27685**

LORENA SHEEN certifies as follows:

I am employed in the County of Los Angeles, State of California; I am over the age of eighteen years and am not a party to this action; my business address is 6300 Wilshire Boulevard, Suite 2000, Los Angeles, California 90048-5202.

On October 6, 2010, I served the foregoing document(s) described as

**CHARGING PARTIES' MOTIONS FOR RECONSIDERATION  
AND TO REOPEN THE RECORD**

by placing a true and correct copy (copies) thereof in a sealed envelope (envelopes) addressed as follows:

Rudy L. Fong-Sandoval, Esq.  
National Labor Relations Board, Region 31  
11150 West Olympic Boulevard, Suite 700  
Los Angeles, California 90064-1824

James J. McDermott, Esq.  
Regional Director, Region 31  
National Labor Relations Board  
11150 West Olympic Boulevard, Suite 700  
Los Angeles, California 90064-1824

Timothy F. Ryan, Esq.  
Morrison & Foerster  
555 West Fifth Street, Suite 3500  
Los Angeles, California 90013-1024

**X VIA UPS NEXT DAY AIR** By using UPS Next Day Air service, and causing delivery to be made to UPS courier service in an envelope or package designated by UPS courier service addressed to the person on whom it is to be served. I am readily familiar with the business practices of Schwartz, Steinsapir, Dohrmann & Sommers LLP for collection and processing of correspondence for overnight mailing. Pursuant to said practices, the envelope(s) would be deposited with UPS that same day, with fees thereon fully prepaid, at Los Angeles, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date on the envelope is more than one day after the date of deposit for mailing in the affidavit. (C.C.P. §1013a(3))

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on October 6, 2010, at Los Angeles, California.

  
LORENA SHEEN